

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

Johnny Nilsen, Kieran Kelly,  
William Ryan, Karl Seemen,  
Sean Sharkey, Fernando Suazo,  
Don Abad, Charles Smith, and  
Paul McGee,

Plaintiffs

vs

Celestial Dawn, Inc. in  
persona and the F/V PROSPERITY,  
in rem

Defendant

Civil Action  
No.: 03-12449MLW

**PLAINTIFFS' MOTION FOR INJUNCTION**  
**PURSUANT TO FRCP RULE 65**


Now come the plaintiffs in the above-entitled action, and respectfully moves this Honorable Court for an injunction precluding the defendant, Celestial Dawn, Inc., from negotiating, disbursing, pledging, assigning, or taking any other action with respect to any potential funds due it related to, or arising out of, the sinking of the F/V PROSPERITY occurring on or about October 12, 2004. In support thereof, the plaintiffs state the following:

1. This is an action in which the defendant has been sued, predominantly, for crew's wages.
2. The defendant has failed to answer or otherways plead in said case. As a result, the plaintiffs have recently filed a motion for entry of default judgment.
3. On information and belief, the F/V PROSPERITY sank, at sea, on October 12, 2004.
4. On information and belief, the F/V PROSPERITY was the sole asset of the Celestial Dawn, Inc. corporation.
5. There exists a reasonable likelihood of recovery on the part of the plaintiffs, given the defendant's failure to answer, or otherwise plead in the instant case.
6. If the defendant is permitted to obtain the funds from any insurance company related to, or arising out of, the loss of the F/V PROSPERITY, irreparable harm will ensue, as the

plaintiffs will be placed in an untenable position with respect to recovery on their respective claims.

WHEREFORE, the plaintiffs respectfully requests that this Honorable Court enter an Order enjoining the defendant, pursuant to FRCP Rule 65, from negotiating, disbursing, pledging, assigning, or taking any other action with respect to any potential funds due it related to, or arising out of, the sinking of the F/V PROSPERITY occurring on or about October 12, 2004. And, further, respectfully requests that this Honorable Court adopt and enter the proposed Order which is hereto attached as Exhibit "A."

Plaintiffs,  
By their attorney,

  
BRIAN S. MCCORMICK, ESQ.  
BBO# 550533  
Orlando & Associates  
One Western Avenue  
Gloucester, MA 01930  
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#### CERTIFICATE OF SERVICE

I, Brian S. McCormick, attorney for the plaintiffs herein, hereby certify that I served a copy of the foregoing Plaintiffs' Motion for Injunction Pursuant to FRCP Rule 65, by mail, postage prepaid, to Salvatore Frontiero, Esq., 14 Pleasant Street, Gloucester, Massachusetts 01930, on this 21<sup>st</sup> day of October, 2004.

  
BRIAN S. MCCORMICK, ESQ.